

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN X. ACOSTA AND INDIA WANEBO,

**PROPOSED
JUDGMENT**

Plaintiff,
-against-

22-CV-576 (FB)(RER)

THE CITY OF NEW YORK, ET AL.;

Defendants.
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WHEREAS, Plaintiffs commenced this action by filing a complaint on February 1, 2022 alleging that Defendants violated Plaintiffs' rights under the federal constitution and state law; and

WHEREAS, on September 26, 2023, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants offered to allow Plaintiff India Wanebo to take judgment against the City of New York for Plaintiff India Wanebo's federal claims (Exhibit 1, Defendants' Rule 68); and

WHEREAS, on October 5, 2023, Plaintiff Wanebo accepted Defendants' Rule 68 Offer of Judgment;

NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff India Wanebo will take judgment against defendant City of New York in this action for the total sum of Twenty-Four Thousand and One (\$24,001.00) Dollars to India Wanebo, plus reasonable attorneys' fees, expenses, and costs to the date of the offer – September 26, 2023 – for Plaintiff India Wanebo's federal claims.

2. This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff Wanebo may have to damages, or any other form of relief, arising out of the

alleged acts or omissions of Defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

3. This Judgement is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof nor is it an admission that Plaintiff has suffered any damages.

4. In accepting the Defendants' offer of judgment, Plaintiff India Wanebo releases and discharges Defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff India Wanebo arising out of the facts and circumstances that are the subject of this action.

5. By accepting the offer of judgment, Plaintiff Wanebo waives the Plaintiff's right to any claim for interest on the amount of the judgment.

6. By accepting the offer of judgment, Plaintiff India Wanebo agrees that the aforesaid payment of Twenty-four Thousand and One (\$24,001.00) to India Wanebo within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff India Wanebo received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If Plaintiff India Wanebo is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date the Plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

7. By acceptance of this Rule 68 Offer of Judgment, Plaintiff India Wanebo agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff India Wanebo further agrees to hold harmless defendants and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

Dated: New York, New York
_____, 2023

HON. _____